

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LEON MIDDLETON and ORIEN WHITE,

Plaintiffs, **NOTICE OF REMOVAL**

-against-

ERNEST C. PAULHAMUS and SUSQUEHANNA
TRANSIT COMPANY, INC.,

Defendants.

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TO: SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

PLEASE TAKE NOTICE that on December 8, 2005, defendant
ERNEST C. PAULHAMUS and SUSQUEHANNA TRANSIT COMPANY, INC. filed a
Petition for Removal with the United States District Court,
Southern District of New York.

Dated: New York, New York
December 8, 2005

Respectfully submitted,

MORRIS DUFFY ALONSO & FALEY

By: _____
MATTHEW J. VITUCCI (6446)
Attorneys for Defendants
ERNEST C. PAULHAMUS
and SUSQUEHANNA TRANSIT
COMPANY, INC.
Two Rector Street
New York, New York 10006
(212) 766-1888
FAX: (212) 766-3252

TO: SUSSMAN & FRANKEL, LLP
Attorneys for Plaintiff
805 Third Avenue, Eleventh Floor
New York, New York 10022
(212) 688-8895

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LEON MIDDLETON and ORIEN WHITE,

Plaintiffs, **PETITION FOR REMOVAL**

-against-

ERNEST C. PAULHAMUS and SUSQUEHANNA
TRANSIT COMPANY, INC.,

Defendants.

-----X
TO: JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

_____The Petition of Matthew J. Vitucci, respectfully shows,
as follows:

1. The undersigned is the attorney for the defendant ERNEST C. PAULHAMUS in the above-entitled action now pending in the Supreme Court of the State of New York, County of Bronx; that service of a Summons and Complaint was made upon defendant and SUSQUEHANNA TRANSIT COMPANY, INC. a Pennsylvania Corporation with a principal business in Avis, Pennsylvania by service of a Summons and Complaint on or about November, 30, 2005.

2. That service was made upon defendant ERNEST C. PAULHAMUS, citizen of the State of Pennsylvania on or about November 29, 2005.

3. That the causes of action as set forth in the Complaint seek money damages for personal injuries.

4. In their Complaint, plaintiffs seek to recover damages for personal injury resulting from the alleged negligence

in the ownership, operation, management, maintenance and control of a certain vehicle that was involved in an accident that took place in a parking lot located at 1501 North Albany Avenue, Atlantic City, New Jersey.

5. It is alleged the that the defendants ERNEST C. PAULHAMUS and SUSQUEHANNA TRANSIT COMPANY, INC. is a Pennsylvania were negligent in the ownership and operation of a certain vehicle identified as a 2002 MCI motor vehicle bearing Pennsylvania license plate number BN00365.

6. The plaintiffs, LEON MIDDLETON and ORIEN WHITE, reside in Bronx County, New York.

7. Defendant ERNEST C. PAULHAMUS is a Pennsylvania citizen; defendant and SUSQUEHANNA TRANSIT COMPANY, INC. is a Pennsylvania corporation with a principal place of business located in Avis, Pennsylvania.

8. That this action may be removed to this Court by the defendants pursuant to 28 U.S.C. Section 1441(c) since plaintiffs' action is a civil action where the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs, and is between citizens of different states.

9. As the residence and situs of incorporation amongst the defendants and plaintiffs establish complete diversity of citizenship and the amount in controversy exceeds the sum of \$75,000 exclusive of costs and interest, the defendant's desire to remove this action from the Supreme Court of the State of New York

County of Bronx, to the United States District Court for the Southern District of New York.

10. The defendants ERNEST C. PAULHAMUS and SUSQUEHANNA TRANSIT COMPANY, INC. attaches hereto a copy of all process and pleadings thus far served herein.

WHEREFORE, defendants ERNEST C. PAULHAMUS and SUSQUEHANNA TRANSIT COMPANY, INC. prays that the action now pending against them in the Supreme Court of the State of New York, County of Bronx be removed therefrom to this Court.

Dated: New York, New York
December 8, 2005

Respectfully submitted,

MORRIS DUFFY ALONSO & FALEY

By: _____
MATTHEW J. VITUCCI (6446)
Attorneys for Defendants
ERNEST C. PAULHAMUS
and SUSQUEHANNA TRANSIT
COMPANY, INC.
Two Rector Street
New York, New York 10006
(212) 766-1888
FAX: (212) 766-3252

TO: SUSSMAN & FRANKEL, LLP
Attorneys for Plaintiff
805 Third Avenue, Eleventh Floor
New York, New York 10022
(212) 688-8895

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LEON MIDDLETON and ORIEN WHITE,

Plaintiffs, **AFFIDAVIT**

-against-

ERNEST C. PAULHAMUS and SUSQUEHANNA
TRANSIT COMPANY, INC.,

Defendants.

-----X
STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

MATTHEW J. VITUCCI, being duly sworn, deposes and says:

1. I am a member of the law firm of MORRIS DUFFY ALONSO
& FALEY attorneys for defendants ERNEST C. PAULHAMUS and
SUSQUEHANNA TRANSIT COMPANY, INC.

2. Defendant petitions this Court for removal; leave
will be sought to amend the caption in this action to read as
follows:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LEON MIDDLETON and ORIEN WHITE,

Plaintiffs,

-against-

ERNEST C. PAULHAMUS and SUSQUEHANNA
TRANSIT COMPANY, INC.,

Defendants.

-----X

MATTHEW J. VITUCCI (6446)

Sworn to before me this
8th day of December, 2005

Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

LEON MIDDLETON and ORIEN WHITE,

Plaintiffs, **VERIFICATION**

-against-

ERNEST C. PAULHAMUS and SUSQUEHANNA
TRANSIT COMPANY, INC.,

Defendants.

-----X

MATTHEW J. VITUCCI, being duly sworn according to law,
deposes and says:

That he is one of the attorneys for ERNEST C. PAULHAMUS
and SUSQUEHANNA TRANSIT COMPANY, INC. the within named
defendants/petitioners; that he has read the foregoing Petition for
Removal; and that the statements contained therein are true in
substance and to my knowledge.

MATTHEW J. VITUCCI (6446)

Sworn to before me this
8th day of December, 2005

Notary Public